Supreme Court, U.S.
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IN THE UNITED STATES SUPREME COURT

COMMONWEATH OF PENNSYLVANIA

vs.

JANET JONES

Petitioner

PETITION FOR WRIT OF CERTIORARI

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II. **WAS THE DEFENDANT DEPRIVED OF HER CONSTITUTIONAL RIGHTS TO CONFRONT THE WITNESSES AGAINST HER?**

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QUESTIONS PRESENTED FOR REVIEW

I. WAS THE DEFENDANT DENIED HER RIGHT TO CONTEST THE UNREASONABLE SEARCH AND SEIZURE SHE WAS SUBJECTED TO IN VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES?

II. WAS THE DEFENDANT DEPRIVED OF HER CONSTITUTIONAL RIGHTS TO CONFRONT THE WITNESSES AGAINST HER?

CITATION OF OPINIONS IN COURTS BELOW

1. Superior Court of Pa. No. 3772 EDA 2003

2. Montgomery County Court of Common Pleas No. 00129-03

CONCISE STATEMENT OF JURISIDCTION

Jurisdiction is conferred upon this Court pursuant to 28 U.S.C.S §1257 as a result of the Pennsylvania Supreme Court's June 2, 2005 denial of Defendant's Petition for Allocatur of a decision in a state court on an important question of Federal law that conflicts with relevant decisions of the United States Supreme Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. U.S.C.A. Const. Amend. IV

Amendment IV, Search and Seizure

2. U.S.C.A. Const. Amend. VI

Amendment VI, Jury trials for crimes, and procedural rights

3. Pennsylvania Supreme Court. Pa. Const.art. V, §10(c). Exclusivity of Rule making with Jurisdiction of the Supreme Court.

4. Pennsylvania Rule of Criminal Procedure Rule 578. Omnibus Pretrial Motion for Relief

5. Pennsylvania Rule of Criminal Procedure Rule 579. Time for Omnibus Pretrial Motion and Service.

6. Pennsylvania Rule of Criminal Procedure Rule 580. Disposition of Pretrial Motions.

7. Pennsylvania Rule of Criminal Procedure Rule 581. Suppression of Evidence.

8. 18 Pa. C.S.A. §5511

§5511. Cruelty to animals.

See Appendix for provisions.

CONCISE STATEMENT OF THE CASE

The Commonwealth of Pennsylvania authorizes and empowers organizations known as SPCAs to police individuals, as well as other competing organizations, in the care of animals. This empowerment by the State includes the ability to search an individual home, seize their pets, issue citations seeking fines and restitution for the SPCA. No standard or guideline exists in the empowerment as to the basis for an individual SPCA officer's determination that seizure and forfeiture are required as opposed to the possibility of a remedial approach. 18 Pa.C.S.A. §5511

This case involved such a criminal prosecution for a violation of 18 Pa.C.S.A.. §5511(c), (Cruelty to Animals) which was commenced as the result of the Montgomery County SPCA. The Defendant, Janet Jones, after an appeal from her summary conviction, was tried before the Honorable Albert R. Subers who found her guilty on November 14, 2003. Judge Subers ordered her to pay restitution in the amount of $45,600.00 and forfeit her pets which had been seized by the Montgomery County SPCA .

Janet Jones runs a non-profit organization known as Animal Orphans, Inc. This organization finds homes for animals which are found abandoned. Animal Orphans, Inc. competes for public donations with The Montgomery County SPCA, an organization that euthanizes feral non-domesticated cats within 48 hours.

Animal Orphans also places animals whose owners either are unable or no longer desire to care for them. R546a, N.T. Jones, 11-13-03, p. 274. Janet Jones also acquired a number of her own pets, some that had diseases which rendered them unadoptable and some that

were a friend's who had passed on. R547a, 554a, N.T. Jones, 11-13-03, p. 275, 282. Through her own resources, Janet Jones provided the medications and veterinary care for all of the animals she maintained at her residence. Any animals offered for adoption by Animal Orphans, Inc. were placed in cages in various pet stores. The space was donated by the pet stores and volunteers from Animal Orphans, Inc. would feed and care for the animals until such time as they were adopted. R546a, N.T. Jones, 11-13-03, p. 274.

Over the years, Janet Jones devoted her entire house and backyard to the care of her pets, creating a fenced-in area in the back of her yard that contained areas for the cats to find shelter and warmth. This was accomplished through heat lamps and bedding, as well as protection from the elements. Janet Jones had also ensured that all of the animals received water, food and a fresh litter pan available on a daily basis. R548a, 553a, 557a-560a, N.T. Jones, 11-13-03, p. 276, 281, 285-288.

On September 13, 2002, the Montgomery County SPCA obtained a search warrant and pursuant thereto, seized and removed every one of Janet Jones' pets, including dogs and cats that she had been caring for, for more than ten years. R554a, N.T. Jones 11-13-03, p. 282. The SPCA retrieved the animals using rabies poles while chasing the animals throughout Janet Jones' house and property. The animals were then placed in cages, for several hours, without any newspaper, stacked up on top of one another, in a van and transported to the SPCA where they have remained in their cages since September 13, 2002. R584a, N.T. Jones, 11-13-03, p. 312; R377a, N.T. Woodward, 11-13-03, p. 105; R237a-238a, N.T. Davies, 11-12-03, p. 237-238.

Some of the animals that Janet Jones took care of had feline aids and feline leukemia, but those animals had those diseases prior to Janet obtaining them and the reason that she cared for them was that because of those diseases, they were not capable of being adopted. In addition, in order to treat those diseases, various medication is required which Janet Jones paid for with her own money. R560a, 561a, N.T. Jones, 11-13-03, p. 288-289.

There were a few animals who had minor upper respiratory infections which commonly occur to cats. R421a-423a, N.T. Putchat, 11-13-03, p. 147-151. In fact, these infections have occurred on a regular basis while Janet Jones' pets remain with the SPCA, Exhibit D-4. In addition, a number of Janet Jones' pets have died and one has escaped while confined to the cages assigned to them by the SPCA. Exhibit D-5.

Although Janet Jones never agreed that her premises were at any time unsanitary, she performed a general cleanup of the premises and forwarded pictures of same to the SPCA shortly after they had removed her pets, requesting that they return her pets to her. In addition, in order to satisfy any concerns of the SPCA, it was proposed that the animals be returned gradually and under the SPCA's supervision in order for them to be satisfied that Janet Jones intended to and could properly care for all of her pets. R533a-541a, N.T. 11-13-03, p. 261-269. The SPCA refused the request to return and instead, insisted upon retaining all of the animals, where they have remained until today in their respective cages. R440a, N.T. Putchat, 11-13-03, p. 168. The SPCA also filed 105 citations requesting a maximum $750.00 fine and 90 day imprisonment on each citation, as well as a forfeiture of all of Janet Jones' pets precipitating the litigation presently before the Court.